

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHERMAN LANCE WASHINGTON,

Defendant-Appellant.

UNPUBLISHED

May 10, 2011

No. 296624

Ingham Circuit Court

LC No. 09-000916-FH

Before: DONOFRIO, P.J., and BORRELLO and BECKERING, JJ.

PER CURIAM.

Defendant appeals as of right from his jury convictions of two counts of larceny from a motor vehicle, MCL 750.356a(1). For the reasons set forth in this opinion, we affirm the convictions and sentences of defendant.

On November 9, 2009, the morning of defendant's trial and just before the parties began selecting a jury, defendant's counsel made a request to the trial court to withdraw. The request was premised, in part, on defendant's request that he be allowed to represent himself in the proceedings that were about to commence. After questioning defendant at some length about his decision to forgo counsel and represent himself, the trial court granted defendant's request to act as his own counsel. Defendant now argues that the trial court abused its discretion by permitting him to represent himself. Specifically, defendant argues that the court failed to substantially comply with the first two requirements set out in *People v Anderson*, 398 Mich 361, 367-368; 247 NW2d 857 (1976).

We review the determination whether a defendant's waiver of counsel was knowing and intelligent for clear error; the determination of the meaning of knowing and intelligent waiver is a question of law that we review de novo. *People v Williams*, 470 Mich 634, 640; 683 NW2d 597 (2004). We review a trial court's decision to permit a defendant to represent himself for an abuse of discretion. *People v Hicks*, 259 Mich App 518, 521; 675 NW2d 599 (2003).

The United States Constitution guarantees a defendant's right to counsel. US Const, Am VI; *Williams*, 470 Mich at 641. But a defendant may request to waive the right to counsel and exercise the right of self-representation. Const 1963, art 1, § 13; MCL 763.1; *Williams*, 470 Mich at 642. See also, *Faretta v California*, 422 US 806, 818-819; 95 S Ct 2525; 45 L Ed 2d 562 (1975). Before granting such a request, a trial court must determine whether three criteria are met:

First, the waiver request must be unequivocal. Second, the trial court must be satisfied that the waiver is knowingly, intelligently, and voluntarily made. To this end, the trial court should inform the defendant of potential risks. Third, the trial court must be satisfied that the defendant will not disrupt, unduly inconvenience, and burden the court or the administration of court business. [*Williams*, 470 Mich at 642, citing *Anderson*, 398 Mich at 367-368.]

In addition thereto, the court also must comply with MCR 6.005(D). A defendant's waiver of counsel is ineffective if the court fails to substantially comply with these requirements. *People v Russell*, 471 Mich 182, 191-192; 684 NW2d 745 (2004).

We find that the trial court correctly determined that defendant's request for self-representation was unequivocal. The record establishes that on the day of trial and prior to jury selection, defendant requested that he be allowed to represent himself. The court proceeded to ask defendant whether he was requesting to represent himself and whether he was aware of his charges and possible punishment. Defendant was asked by the trial judge four times if he wished to act as his own counsel. Defendant was also informed that he would be held to the standards of an attorney and "that the deck is sort of stacked against" him. Defendant responded "Yes, ma'am" after almost every question. After informing defendant of what was going to happen that day, the court asked defendant again if he wanted to represent himself:

The Court: All right. But do you want to proceed, despite everything I have told you by representing yourself?

Defendant: Yes, ma'am.

Although every reasonable presumption should be made against waiver, a defendant who knowingly exercises his right to defend himself need not be repeatedly pressured into relinquishing that right. *Russell*, 471 Mich at 188; *People v Morton*, 175 Mich App 1, 7; 437 NW2d 284 (1989). In this case, defendant was aware of the risks associated with self-representation and expressly affirmed his desire to represent himself.

Defendant's argument that his request was equivocal because he was unaware of trial procedure and he inquired about various motions he had filed is unpersuasive. Even assuming that defendant was unaware that jury selection was about to begin and that the trial would begin immediately after the jury was selected, such lack of knowledge did not affect the trial court's determination as to whether defendant unequivocally requested self-representation. Second, the court informed defendant that his motion for new counsel had been heard by way of his request for self-representation, and that his motion for adjournment was denied because it was untimely. Defendant sought discovery but the transcript of his preliminary examination did not exist, and advisory counsel stated that he gave defendant copies of all the documents in his possession. When viewing the record as a whole, we find that the trial court substantially complied with the first *Anderson* prong.

Defendant next argues that the trial court failed to satisfy the second *Anderson* prong, but offers no support for this assertion. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give only

cursory treatment with little or no citation of supporting authority.” *People v Kelly*, 231 Mich App 627, 640-641; 588 NW2d 480 (1998). Nevertheless, our review of the record indicates that the trial court informed defendant of the inherent risks in acting as his own counsel. The trial court also informed defendant as to the severity of the charges against him and the potential, as a fourth habitual offender to be sentenced to life in prison. Following all these pronouncements the defendant was again asked if he still wanted to represent himself, to which he replied, “Yes ma’am, I sure do.” Thus, defendant was informed of the charges against him, the maximum punishment, and the fact that he would be held to the same evidentiary standards as a practicing attorney. Lastly, the trial court warned defendant that “the deck was stacked against him,” if he chose to act as his own counsel. Accordingly, the record clearly reflects that the trial court correctly determined that defendant’s decision to act as his own counsel was knowingly, intelligently, and voluntarily made. *Anderson*, 398 Mich at 367-368.

Affirmed.

/s/ Pat M. Donofrio
/s/ Stephen L. Borrello
/s/ Jane M. Beckering